

**THE HONOURABLE SRI JUSTICE GODA RAGHURAM**

W.P.NO.11196 OF 2004

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BETWEEN

Amina Sultana wife of Sri M.A.Gaffar Saradgi

..petitioner

**VS.**

The Director, Central Council for Research in Unani Medicines, New Delhi and three others.

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## ..Respondents

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**ORAL ORDER**

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Heard Sri Mohd.Yousufuddin, learned counsel for the petitioner and Sri T.Laxmi Narayana, learned counsel for the respondents. In substance, the petitioner seeks reinstatement into service and absorption in an existing vacancy on regular

basis, as also regularization of the period of the petitioner's leave on medical grounds during 05-10-2001 to 31-12-2002 as leave to which the petitioner is entitled.

Pursuant to an advertisement for engagement as a Senior Research Fellow, the petitioner was sponsored by the local Employment Exchange, appeared before the selection committee for interview and was engaged on a contractual basis initially for a period of two (2) years, extendable by one year on satisfactory performance, by proceedings dated 07-11-1994, in the Central Council for Research in Unani Medicine. The contractual engagement was extended thereafter from time to time, the last of which was by proceedings dated 21-08-2001. By the proceedings dated 21-08-2001 the petitioner's contractual engagement was extended for a further period of six (6) months with effect from 01-06-2001. There was neither extension of the contractual tenure nor fresh appointment thereafter. Accordingly the contractual relationship between the petitioner and the respondents stood determined by 31-11-2001. On 05-10-2001 the petitioner went on a medical leave.

As the petitioner was not re-engaged after 31-11-2001, she made repeated representations and there being no satisfactory response, has approached this Court for appropriate relief.

On behalf of the respondents, the Deputy Director, in-charge of the Central Research Institute for Unani Medicine, Hyderabad has filed a counter-affidavit. The gravamen of the defence is that there is no post of Research Fellow in the respondents-institute either in the cadre or ex-cadre. It is also contended that the position of Research Fellow is not a feeder channel to any cadre post in the institute. In the counter-affidavit it is stated that the writ petitioner was initially engaged on fellowship basis as a Senior Research Fellow (Unani) initially for a period of two years and extended from time to time. As the petitioner re-approached for engagement beyond the period of the last of her contractual tenure i.e., beyond 31-11-2001, the petitioner was not engaged. It is also stated that there is no provision for absorption to the post of Research Fellow because there is no such post in the cadre of the respondents-institute. Responding to the petitioner's grievance that she has become over aged for applying for the post of Research Officer (Unani), the respondents contend that the post of Research Officer (Unani) is an independent post to which there is no feeder avenue from the post of Research Fellow. As there is no post known as Research Fellow or a Senior Research Fellow, no question of

absorption in such a non-existent post could be there, is the substratum of the respondents-assertion.

From the chronology of the events adverted to above, in the considered view of this Court no relief could be granted. The petitioner's engagement as a Senior Research Fellow was on a contractual basis initially for a period of two years and continued thereafter from time to time till 31-11-2001. Such continual engagement to the position of Research Fellow, which is not a cadre post in the Organization does not entitle the petitioner to lay a claim for regularization in such a position. Where there is no legal right there could be no remedy. No merits in the writ petition.

The writ petition is accordingly dismissed. No order as to costs.

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**GODA RAGHURAM,J**

24<sup>th</sup> JANUARY 2006

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